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International Convention for the Protection of All Persons from Enforced Disappearance

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**Committee on Enforced Disappearances**

# Concluding observations on the report submitted by Mexico under article 29, paragraph 1, of the Convention

**Addendum**

## Information received from Mexico on follow-up to the concluding observations[1]

[Date received: 20 February 2018]

## Introduction

1. The Government of Mexico hereby submits its report on the follow-up to the recommendations made by the Committee on Enforced Disappearances within its jurisdiction, on the basis of article 29 (3) of the International Convention for the Protection of All Persons from Enforced Disappearance.

2. Mexico complies with this international obligation by reporting on significant developments in the legislative and institutional structure relating to the search for and fight against enforced disappearances. Among these developments, it is worth noting the recent entry into force of the General Act on Enforced Disappearance of Persons, Disappearance Perpetrated by Individuals and the National Search System, which lays the groundwork for strengthening institutions and designing public policies that will enable the country to address the phenomenon of disappeared persons according to the highest international standards.

3. This progress has been achieved thanks to the joint efforts of the Mexican Government, civil society organizations and groups of relatives of disappeared persons, as well as international organizations, which participated actively in the process of drafting and adoption of the Act. The Mexican State undertakes to continue working hand in hand with civil society in the effective implementation of the General Act as a matter of priority. The Government expressed this commitment when it met with civil society organizations and groups of relatives to discuss preparation of this report (for a report on that meeting, see annex 1).

[1] The present document is being issued without formal editing.

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## Individual and inter-State communications

4. **Paragraph 14: The Committee strongly encourages the State party to recognize the Committee's competence to receive and consider individual and inter-State communications under articles 31 and 32 of the Convention with a view to strengthening the framework for protection against enforced disappearances provided under the Convention.**

5. The Government has taken note of the Committee's recommendation, in particular with regard to article 31 of the Convention. This is a complex process which entails considering the views of a large number of important institutions, and it is still under consideration. An analysis must be made of the work of other regional and global mechanisms with authority to consider individual cases. Moreover, the Government felt it must give priority to having the legal framework that is now made possible by the aforementioned General Act, and to ensuring that it is adequately implemented. In that context, the Government wishes to continue working with the Committee and strengthening the dialogue, especially in order to address the urgent actions that concern Mexico and to follow up on the Committee's recommendations. In particular, it should be borne in mind that, contrary to the case with other treaty bodies, article 29 (3) and (4) of the Convention establishes a procedure for a continuous exchange of information on implementation of the Convention.

## State party's federal structure

6. **Paragraph 16: Recalling article 41 of the Convention, the Committee recommends that the State party adopt the necessary measures to ensure that, at both the federal and state level, legislation and practice are in full compliance with the obligations set forth in the Convention. In this regard, it encourages the State party to adopt, as soon as possible, a general law that regulates all aspects of enforced disappearance covered by the Convention, particularly those relating to the prevention, investigation, prosecution and punishment of enforced disappearances, the search for disappeared persons and their legal situation. The Committee also recommends that the involvement of victims of enforced disappearance, civil society organizations and the National Human Rights Commission be guaranteed in all stages of the process leading to the adoption of this law.**

7. On 27 April 2017, the Senate adopted the bill on the General Act on Enforced Disappearance, Disappearance Perpetrated by Individuals and the National Search System. The bill was submitted to the Chamber of Deputies and was adopted by the legislature on 12 October 2017. The Act was published in the Official Gazette on 17 November 2017 and entered into force on 16 January 2018.

8. The Act is the result of extensive consultations with legislators, authorities, scholars, specialists, civil society organizations, victims' representatives and the general public, as well as public consultations through the Internet, discussion groups with civil society organizations, representatives of victims, discussion groups and forums. The process was divided into three phases:

(a) Phase 1. Online consultations with the public on the portal www.segob.gob.mx/consultapersonasnolocalizadas. This consultation was carried out from 23 July to 21 August 2015 with the participation of representatives of the Ministry of the Interior, the Office of the Attorney General of the Republic, the Executive Commission for Victim Support and international agencies, such as the Office of the United Nations High Commissioner for Human Rights and the International Committee of the Red Cross (ICRC);

(b) Phase 2. Working groups with civil society organizations and victims' representatives from 13 to 18 August 2015; these included discussions with civil society organizations and victims' representatives and direct discussions with the authorities responsible for drafting the bill. The following civil society organizations participated in the working groups: Litigio Estratégico de Derechos Humanos, Red Eslabones de los Derechos Humanos Integrante del Movimiento por la Paz con Justicia y Dignidad, Fundación FIND

A.C., Amnesty International Mexico, Mexican Commission for the Defence and Promotion of Human Rights, Fray Juan de Larios Diocesan Centre for Human Rights, Fuerzas Unidas por Nuestros Desaparecidos en México, Fuerzas Unidas por Nuestros Desaparecidos en Coahuila, Believe A.C., Asociación Alas de Esperanza, Asociación Grupo Vida, Freedom House and Ciudadanos en Apoyo a los Derechos Humanos (CADHAC). In addition, ICRC provided continuing support;

(c) Phase 3. This phase consisted of two round-table discussions with civil society organizations at which participants were able to express their views both directly and in the form of draft articles for a bill. The first round table was conducted on 26 August 2015, and the second was held on 2 September 2015.

9. The information gathered during the three phases of the consultation was compiled and correlated in order to include the proposals in the bill.

10. The federal executive branch, acting through the Ministry of the Interior, was in constant contact with lawmakers, civil society organizations and groups representing victims to promote the bill and any amendments that might be necessary to ensure that the problem would be addressed adequately. This entailed holding lengthy discussions and making a serious effort to include the highest international standards in this area.

11. The General Act on Enforced Disappearance of Persons, Disappearance Perpetrated by Individuals and the National Search System has the following features:

- It establishes two criminal offences which are continuing in nature, are prosecuted ex officio and are not subject to the statute of limitations:
    - The offence of enforced disappearance of persons is punishable with 40 to 60 years imprisonment;
    - The offence of disappearance perpetrated by individuals is punishable with 25 to 50 years;
- Other offences related to disappearance of persons are also included, along with the relevant penalties;
- The Act provides for coordination among authorities of the different branches of government;
- It seeks to ensure that the facts are established and has as its objective the prevention, investigation, punishment and total elimination of the phenomenon of enforced disappearance;
- It creates the National Search System;
- As part of the National Search System, it sets up the National Search Commission, which is called on to give its opinion prior to issuance of the following protocols:
    - Harmonized search protocol to be issued by the National Search System; in addition, the National Search Commission will promote the review and updating of the protocol;
    - Harmonized investigation protocol to be issued by the National Conference of State Attorneys General;
    - Specialized protocol on searches for persons under 18 years of age;
- The Act stipulates that victims have the right to full reparation measures that are not subject to statutory limitations, as follows:
    - Measures of restitution, rehabilitation, compensation, satisfaction and guarantees of non-repetition, of an individual, collective, material, moral and symbolic nature, pursuant to the General Victims Act;
    - In the case of victims of enforced disappearance, the Federation and the federative entities are responsible for ensuring full reparation when their own public officials or individuals working with their authorization, consent, support, acquiescence or endorsement are responsible;

- In the case of victims of disappearance perpetrated by individuals, the Federation and the federative entities must provide subsidiary compensation on the terms set forth in the General Victims Act;

- The Act establishes a mechanism for issuing a special declaration of absence for families of disappeared persons. The procedure may be initiated when three months have elapsed from the date of a complaint or report of disappearance or from the submission of a complaint to the National Human Rights Commission or to a public human rights protection agency of a federative entity, and the matter must be resolved no later than six months from the beginning of the procedure. The procedure is brief and simple so that families can obtain custody of minors, property, social security benefits or assets once the judge of the competent civil court has issued the special declaration of absence;

- The Act includes security measures. Special prosecutors are empowered to authorize the inclusion of relatives of victims, activists, human rights defenders and journalists involved in the search, investigation or prosecution of the offences in protection programmes in order to protect their integrity;

- The Federal Prosecution Service may, on its own motion or at the request of the victim, request the local prosecutor concerned to refer the investigation to it, in the following cases:

  - Bearing in mind the special characteristics of the offence, as well as the circumstances in which it was committed or its social significance;

  - When it has been established that the act was committed with the involvement of a person belonging to or cooperating with organized crime;

- The Act establishes the Mechanism for Mexican Support Abroad in Search and Investigation Activities, which is a series of actions and measures designed to facilitate access to justice and initiate proceedings, within its sphere of competence, for reparations to migrants. The main functions of the Mechanism are:

  - It assists in searching for and locating disappeared migrants with the National Search Commission and the investigation and prosecution of crimes undertaken by specialized prosecutors in coordination with the criminal investigation unit for migrants;

  - The personnel of Mexican consulates, embassies and attachés in other countries are involved in the operation of the Mechanism;

  - When the search involves formalities in another country, whether it be the country of origin, transit or arrival of the migrants concerned, the Mechanism is activated to ensure that information and evidence are processed immediately and effectively throughout the search process;

- The Act prohibits the burial of bodies or remains of persons whose identity is unknown or who have not been claimed; they must not be cremated, destroyed or disintegrated, and their personal belongings must not be disposed of;

- In the case of minors under 18 years of age, who have been reported as missing, regardless of the circumstance, an investigation must always be opened, and the search must be undertaken even if there are no indications that a crime has been committed;

- The Act provides that federative entities must establish state citizens' councils to serve as consultative bodies for the local search commissions;

- The National Search and Location Programme operated by the National Search Commission involves:

  - Identifying the time and location of critical episodes of disappearance in the country, determining the context of the disappearances and the methodologies to be followed in search and location activities in each situation;

- A specific method of context analysis that will contribute to the search for and location of missing persons in episodes of past political violence;
- Mechanisms and modalities to allow for the participation of families, groups of families and civil society organizations or companions in the design, implementation, monitoring and evaluation of the programme.

12. The Act creates four basic tools:

(a) The National Search System, which allows for the immediate mobilization of searches for and location and identification of disappeared and missing persons by the National Search Commission and local commissions, which together conduct coordinated and simultaneous searches in response to complaints, reports or news concerning the disappearance or location of persons which are received by federal, state or municipal authorities and transmitted to the System via technological means or telecommunications. Similarly, they are mandated to investigate and punish offences related to disappearance which are under the responsibility of specialized prosecutors in the Office of the Attorney General of the Republic and local attorneys general, who also conduct searches. The System works with the following tools:

(i) The National Register of Disappeared and Missing Persons;

(ii) The National Forensic Databank;

(iii) The National Register of Unidentified and Unclaimed Deceased Persons;

(iv) The National Register of Graves;

(v) The Administrative Register of Detentions;

(vi) The Amber Alert;

(vii) The Harmonized Search Protocol; and

(viii) Other records needed for their work;

The National Search System has the following terms of reference:

- To issue model guidelines for coordination between authorities involved in searching for disappeared persons and investigating the offences;
- To establish and operate, in coordination with federal authorities and federative entities, a single information-technology system to allow access to, processing and use of all information relevant to searches and investigation of offences;
- To generate the necessary mechanisms and arrangements for implementing the recommendations and requirements of the National Search System;
- To assess the fulfilment of the National Search Programme and the National Exhumation Programme;
- To monitor and evaluate the implementation of the Harmonized Search Protocol;

(b) The National Search Commission is a deconcentrated administrative body of the Ministry of the Interior which determines, implements and monitors searches for disappeared and missing persons throughout the national territory. Its main features are:

- It has authority to promote linkages, operations, management, evaluation and monitoring of actions by authorities involved in searching for, locating and identifying persons;
- Local search commissions of federative entities must coordinate with the National Search Commission and perform duties similar to those of the National Search Commission;
- Public officials serving on the National Search Commission must be certified and have special training in search techniques following criteria to be established by the National Search System;

- The Commission is assisted in its activities by a search group, a context analysis area and an information management and processing area;
- Searches must be conducted immediately, according to the Harmonized Search Protocol, which must include information in the National Register cross-referenced with other records or databases (such as public and private hospitals, detention facilities and prisons, forensic medical services and forensic databanks) by means of information-technology systems set up for that purpose on a regular and thorough manner;

The National Search Commission has the following terms of reference:

- To set up and implement the National Search Programme, the lead agency in this area;
- To issue guidelines governing the work of the National Register and coordinate its operation;
- To request the Federal Police to undertake specific searches for disappeared or missing persons;
- To request the support of police departments of the three branches of government when National Search Commission staff need to work in the field;
- To request reports from local commissions on implementation of the National Search Programme;
- To design and propose mechanisms for coordinating and collaborating with authorities from the different branches of government in connection with search activities;
- To advise and refer family members to submit their complaints to the Office of the Special Prosecutor;
- To carry out searches with the elements available under the applicable protocol and, in coordination with local commissions, to conduct and follow up on searches, bearing in mind the specific nature of each case;
- In conducting searches, to have unrestricted access to information contained in the platforms, databases and records of all authorities;
- To set up working groups to propose specific search actions and to analyse the phenomenon of disappearance, including at the regional level;
- To meet regularly and stay in touch with local search commissions, in order to exchange experiences and identify best practices for locating persons;
- To have a telephone number, as well as some other means of free access to communication to provide information without needing to comply with formalities, so as to help in searches;
- If the families concerned agree, to request broadcast and telecommunications media to disseminate news bulletins relating to the search;
- To set up specific search activities in cases of disappearance of persons connected with political movements;

(c) The National Register of Disappeared and Missing Persons, working through the Office of the Attorney General, keeps up-to-date information in the registers of disappeared and missing persons of both the Federation and the federative entities to support their investigations relating to searches, location and identification;

- The Register includes a special section for inquiries from the public and spaces for receiving tips on disappeared or missing persons;
- The National Search Commission manages and coordinates the operation of the National Register;

- The local search commissions, local attorneys general and special prosecutors may at any time address queries to the National Register in connection with their searches;

(d) The National Citizens Council, made up of human rights defenders, experts and relatives of victims, advises and issues opinions to the National Search System, in connection with searches;

- Council members are appointed by the Senate of the Republic after public consultation with civil society organizations;
- Councillors must set up a committee to evaluate and monitor the activities of the National Search Commission.

13. Once the Act was published, pursuant to its third transitional article, the Ministry of the Interior published the bases for public consultation on the appointment of the head of the National Search Commission, for which it provided the following links:

- http://bit.ly/2Dq2rl9;
- https://www.gob.mx/segob/es/documentos/bases-para-realizar-la-consulta-publica-para-el-nombramiento-de-la-persona-titular-de-la-comision-nacional-de-busqueda-de-personas.

14. The consultation is targeted to groups of victims, experts and civil society organizations specializing in the area of enforced disappearance, disappearance perpetrated by individuals and searches that wish to nominate someone for the position of head of the National Search Commission.

15. The Act adopted complies with the strictest international standards, establishing uniform definitions of offences and setting up the necessary structures to meet international commitments on behalf of victims.

## Definition and criminalization of enforced disappearance

16. With regard to paragraph 18, the State party was requested to provide the following information:

(a) Whether regulations to implement the Act on the National Register of Missing and Disappeared Persons have been adopted and, if so, whether they include the criteria listed by the Committee in its recommendation;

(b) Details concerning how the methodology used to compile the Register was reformulated by the Office of the Attorney General;

(c) The criteria followed in updating and cleaning the Register;

(d) The measures taken with a view to harmonizing the production of statistical information on enforced disappearance and the outcome of such measures. Detailed information was also to be provided on the national register of disappeared and missing persons envisaged in the new General Act.

17. The Criminal Investigation Agency of the Office of the Attorney General, through the National Centre for Planning, Analysis and Information to Combat Crime, manages the database of missing persons of the ordinary courts. The database compiles records of the offices of the state attorneys general and state prosecutors, with information on persons classified as missing. The records are transmitted to the National Information Centre of the Executive Secretariat of the National Public Security System, which is responsible for implementing the Act on the National Register of Missing and Disappeared Persons.

18. Article 44 of the General Act stipulates that the objective of the National Search System is to design and evaluate, efficiently and harmoniously, the resources of the Mexican State in order to establish general bases, public policies and procedures to be followed by the authorities of the three branches of Government for searching, locating and identifying disappeared and missing persons, and for preventing, investigating and

punishing the offences established in the General Act. In that regard, the National Search System is responsible for reformulating the methodology used to compile the Register.

19. The System is made up of the heads of the Ministry of the Interior, the Ministry of Foreign Affairs, the Office of the Attorney General, the National Search Commission, the Executive Secretariat of the National Public Security System, the Federal Police and local search commissions and three members of the Citizens Council representing each of the sectors represented on it. The members of the System are responsible for deciding on the methodology and criteria to be followed for inter-agency coordination to meet the objectives of the Act.

20. Article 48 of the General Act provides that the System must have the following tools in order to carry out its work:

- The National Register;
- The National Forensic Databank;
- The National Register of Unidentified and Unclaimed Deceased Persons;
- The National Register of Graves;
- The Administrative Register of Detentions;
- The Amber Alert;
- The Harmonized Search Protocol and the protocols envisaged in article 73 of the new Act.

21. As mentioned in the response to the recommendation contained in paragraph 16 of the Committee's report, the National Register will be managed and coordinated by the National Search Commission, which has not yet begun operations. However, the Register is expected to follow up on the Committee's recommendations, include a section for queries from the public and have spaces for receiving tips from the public on disappeared persons. The local search commissions, local attorneys general and special prosecutors' office may at any time address queries to the National Register in order to carry out their searches.

22. **Paragraph 20: The State party should adopt the necessary legislative measures to ensure, as quickly as possible, that enforced disappearance is defined as an autonomous offence, at both the federal and state levels, in line with the definition contained in article 2 of the Convention, and that the offence carries appropriate penalties which take account of its extreme seriousness. In the light of article 8 of the Convention, it should also guarantee that, in cases where a term of limitation is applicable to the offence of enforced disappearance, the term is of long duration and proportionate to the extreme seriousness of the offence and, taking into account its continuing nature, commences from the moment when the offence of enforced disappearance ceases.**

23. The General Act on Enforced Disappearance of Persons, Disappearance Perpetrated by Individuals and the National Search System includes the following provisions:

> Article 27. The offence of enforced disappearance of persons is committed by a public official or an individual who, with the authorization, support or acquiescence of a public official, deprives a person of liberty in any way, subsequently refraining from or refusing to acknowledge such deprivation of liberty or to provide information on that person or on his or her fate, location or whereabouts.
>
> Article 28. A public official or an individual who with the authorization, support or acquiescence of a public official conceals or refuses to provide information on the deprivation of liberty of a person or the whereabouts of a detained person or in any way conceals a detained person shall be liable to the penalty prescribed in article 30.
>
> Article 30. Anyone who commits the acts envisaged in articles 27 and 28 shall be punished with 40 to 60 years imprisonment and a fine equivalent to 10,000 to 20,000 days' wages.

> In addition, when the perpetrator is a public official, he or she shall be dismissed and disqualified, as the case may be, from holding any public position, employment or office for up to twice the period of deprivation of liberty imposed, counted from the date on which the prison sentence is completed.
>
> Article 31. A penalty of 20 to 30 years imprisonment and 500 to 800 days fine shall be imposed on anyone who fails to surrender to the authorities or to relatives a child born of a victim of enforced disappearance during the period of concealment, while being aware of that circumstance.
>
> In addition, a penalty of 25 to 35 years imprisonment shall be imposed on anyone who, without having participated directly in committing the offence of enforced disappearance, retains or keeps hidden a child born during the period of disappearance of the mother, being aware of that circumstance.

24. The offences of enforced disappearance of persons and disappearance perpetrated by individuals shall be prosecuted ex officio and shall be continuing in nature and, therefore, the investigation shall not be temporarily suspended, and the criminal proceedings and enforcement of criminal penalties imposed for such offences shall not be subject to a statute of limitations (arts. 13 and 14).

## Criminal responsibility of superior officials

25. **Paragraph 22. The Committee recommends that the State party take the necessary legislative measures to ensure that both federal and state laws specifically provide for the criminal responsibility of superior officials, in accordance with article 6, paragraph 1(b) of the Convention.**

26. Article 29 of the General Act, which is applicable at both the federal and the state levels, specifically establishes the criminal responsibility of superior officials:

> Art. 29. Superior officials shall be regarded as perpetrators of the offence of enforced disappearance of persons on the terms envisaged in the applicable criminal legislation.

## Disappearances of migrants

27. Paragraph 24: Provide information on:

(a) The organizational structure of the Criminal Investigation Unit for Migrants and the Mechanism for Mexican Support Abroad in Search and Investigation Activities; their relationship to other State bodies with responsibility for migration issues, such as the National Institute of Migration; their technical, financial and human resources and an indication as to whether these are sufficient for them to discharge their functions promptly and effectively;

(b) The guidelines concerning the operation of the Mechanism for Mexican Support Abroad in Search and Investigation Activities, which had been scheduled for publication in April 2016;

(c) Progress made in sharing the ante-mortem/post-mortem database with the Central American States concerned;

(d) Measures taken to provide adequate protection for complainants, experts, witnesses and defence counsels and the results of those measures;

(e) The impact of measures taken to prevent and investigate the disappearance of migrants, prosecute those responsible, search for disappeared migrants and, in the event their remains are found, identify and return those remains. Statistical data should be included.

28. The Criminal Investigation Unit for Migrants has two legal tools for directing and coordinating actions at the ministerial level:

- The ministerial protocol for investigation of crimes committed by and against migrants in vulnerable situations and those subject to international protection in the national territory;
- The guidelines concerning the operation of the Mechanism for Mexican Support Abroad in Search and Investigation Activities (see annex 2).

29. International and civil society organizations helped develop the two tools; and academics specializing in migration issues took part in developing the Protocol.

30. The Mechanism for Mexican Support Abroad in Search and Investigation Activities is being implemented in every country where events within the jurisdiction of the Criminal Investigation Unit for Migrants have been reported. This work is being coordinated with the Ministry of Foreign Affairs and the Coordination Office for International Affairs of the Office of the Attorney General.

31. Discussions, both formal and informal, are ongoing with the families of migrants, as well as with the different committees, groups and foundations that represent them.

32. The Criminal Investigation Unit for Migrants launched an information campaign entitled *Migrar no es un delito* (Migration is not a crime), which has two objectives:

(a) To prevent crimes against migrants; and

(b) To publicize migrants' right to have access to justice.

33. Materials (posters and leaflets) have been distributed throughout Mexico to public and private institutions concerned with migration issues, as well as in the United States of America and Central America, through the Ministry of Foreign Affairs. Similarly, information has been disseminated through the website of the Office of the Attorney General. The public information material has also been shared with different civil society organizations and international agencies and organizations that have offices in Mexico (Doctors Without Borders, the Office of the United Nations High Commissioner for Refugees, the International Organization for Migration (IOM), ICRC, the United Nations Office on Drugs and Crime and a number of consular representatives accredited in Mexico (including El Salvador, Honduras and Brazil).

34. The Criminal Investigation Unit for Migrants has offered training on the issue of access to justice for migrants in Mexico to staff of Beta Groups of the National Institute of Migration, liaison personnel of the Paisano Programme of the Ministry of the Interior; public officials at the migrant holding centre in Mexico City, municipal police in the states of Campeche, Chiapas, Tabasco and Quintana Roo, the Federal Police, the Federal Ministry of Culture, the Attorney General of the State of Puebla and the National System for Comprehensive Family Development.

35. The Unit is participating in the design of the pilot programme on the prevention of violence to migrants, at the invitation of the Consultative Council on Migration Policy of the Ministry of the Interior, with the Office of the Under-Secretary for Prevention and Citizen Participation, representatives of federal, state and municipal governments, academia, civil society organizations, the private sector and international agencies. The objective of the pilot programme is to carry out social programmes to prevent violence and crime against migrants in Tijuana, Baja California and Tapachula, Chiapas.

36. The Criminal Investigation Unit for Migrants participates in travelling workshops on social affairs in 23 municipalities on the southern border. These workshops are led by the Ministry of the Interior to train and raise awareness among municipal police personnel in the communities and the general public about the phenomenon of migration and the powers of the Criminal Investigation Unit for Migrants.

37. The Unit currently has 16 federal prosecutors; a separate budget was allocated for it in 2017.

38. In the context of its work to protect migrants, the National Institute of Migration is actively cooperating with judicial authorities, ministries and national and international police to combat crimes against migrants, pursuant to article 75 of the Migration Act. This provision provides that the Ministry of the Interior should enter into collaboration agreements with agencies and entities of the Federal Government, federative entities and municipalities, to coordinate activities in the areas of prevention, prosecution, combating crime and assisting migrants who are victims of crime.

39. On 26 October 2015, the Office of the Attorney General launched the ante-mortem/post-mortem database, which is part of the National Search Plan, as a research and software tool to make it possible to manage and systematize information on missing persons and human remains, as well as the circumstances surrounding their disappearance and, where appropriate, the places where they were found. In May 2016, the Office of the Attorney General announced the consolidation of the ante-mortem/post-mortem database throughout the country; however, this database has not yet been connected with the relevant databases of the Central American countries.

40. With regard to measures taken to adequately protect persons who make complaints, the migration authorities are not allowed to require an alien to report events that might constitute crimes or to exert any kind of pressure or force anyone to carry out formalities at the ministerial or judicial level. However, if an alien wishes to lodge a complaint with the Prosecution Service, the National Institute of Migration must ensure that he or she has immediate access to law enforcement and must provide the necessary means for that purpose, in accordance with rule 181 of the Regulations to the Migration Act.

41. In order to provide services and protection for migrants who are victims of crime, the following activities were carried out in 2017:

- Assistance was provided to 671 aliens who were victims of crime in the national territory: 82 cases of kidnapping, 23 of trafficking in persons, 560 other crimes and 6 cases involved being a witness to a crime;
- The Institute participated in meetings of the Inter-agency Commission to Prevent, Suppress and Punish Trafficking in Persons, as well as in the Advisory Subcommittee of the Inter-agency Commission to Prevent, Suppress and Punish Trafficking in Persons and to protect and assist victims of such crimes. In that context, the Institute carried out the following actions:
    - It helped to update the National Training Programme on Trafficking in Persons, by bringing the Blue Heart Campaign 2.0 to the attention of federal delegations for consideration by the inter-agency committees;
    - It collaborated in the Information Fair for World Day against Trafficking in Persons;
    - It helped to set up a directory requested by the Executive Commission for Victim Support and to review the protocol on the use of procedures and resources for rescue, assistance, care and protection of victims of trafficking in persons, which is to be used exclusively by personnel of the National Institute of Migration;
    - In conjunction with IOM, it completed development of the protocol for detection, identification and assistance to migrants victims and/or potential victims of trafficking in Mexico.

42. In addition, the National Institute of Migration cooperated in the exchange of information with results of migratory background checks for investigations, as well as migration assistance to aliens who are victims of trafficking in the national territory. It also helped prepare quarterly reports, including on encouraging people to lodge complaints through inter-agency committees concerned with trafficking in persons.

## Criminal responsibility and judicial cooperation in cases of enforced disappearance (arts. 8–15)

43. **Paragraph 26: The Committee recommends that the State party adopt the necessary legislative measures to ensure that enforced disappearances committed by a military officer against another military officer are expressly excluded from military jurisdiction and can only be investigated and tried by the competent civil authorities.**

44. As a result of the constitutional amendment of 2011 on the matter of human rights, the civil authorities now have an adequate and reinforced legal framework for considering cases of alleged human rights violations committed by military personnel. In other words, any violation of human rights committed against a military officer may be reviewed or appealed before ordinary courts through an action for *amparo*, in accordance with the provisions of articles 8 and 25 of the American Convention on Human Rights, provided the amendments to the Code of Military Justice have also been satisfied.

45. In June 2014, article 57 of the Code of Military Justice was amended to remove from military jurisdiction cases of civilian victims of human rights violations, thus complying with the highest international standards. With this, the incipient practice of denial of jurisdiction which the military courts had been implementing in accordance with the criteria of the Supreme Court was codified.

46. Furthermore, the constitutional amendment on criminal matters of June 2008 affected military criminal procedures and the military courts, which were replaced by military courts holding oral proceedings, military courts for oversight and military courts for the enforcement of sentences. Similarly, territorial divisions were adjusted based on the jurisdictional competence of the superior military court, the oversight courts and the courts of oral proceedings. This amendment is intended to promote the human rights of victims and defendants; hence, like the other authorities in the three branches of Government, the Ministry of National Defence is preparing itself, both organizationally and in staff training, to properly implement this new scheme, which challenges them to enforce the law and administer justice more expeditiously and efficiently.

47. In addition, the Military Code of Criminal Procedure places the rights of defendants and victims on the same footing as the National Code of Criminal Procedure does, recognizing the prerogative of the parties to the proceedings which are established in the Constitution, referencing the respect and dignity they deserve, their right to legal counsel, access to prompt, free and impartial justice, to have all the evidence, protection when their lives are in danger, as well as protective and precautionary measures and the opportunity to appeal.

## Investigations of cases of enforced disappearance

48. **Paragraph 28: The State party should redouble its efforts to ensure that, where there are reasonable grounds for believing that a person has been subjected to enforced disappearance, it undertakes a thorough and impartial investigation without delay, even if there has been no formal complaint, and that the perpetrators are prosecuted and, if found guilty, are punished in accordance with the grave nature of their acts. The State party should also:**

(a) **Guarantee that, where there are reasons to believe that an offence of enforced disappearance has been committed, it undertakes effective investigations into any State officials or agencies that might have been involved, without delay, and exhausts all lines of inquiry;**

(b) **Encourage and facilitate the involvement of the relatives of the disappeared person in the investigations, without this conferring upon them any responsibility for producing the evidence necessary for the investigation;**

(c) **Guarantee effective coordination and cooperation between all agencies involved in the investigation and ensure that they have sufficient infrastructures and**

**the technical, expert, financial and human resources to perform their functions expeditiously and effectively;**

(d) **Take the necessary measures to guarantee that law enforcement or security forces, whether civilian or military, whose members are suspected of having committed an offence of enforced disappearance do not take part in the investigation.**

49. The General Act on Enforced Disappearance of Persons is aimed inter alia at the following:

(a) To establish the distribution of competence and coordination among the authorities of different branches of Government to search for disappeared and missing persons and to establish the facts and to prevent, investigate, punish and eradicate crimes relating to enforced disappearance and disappearance perpetrated by individuals, as well as related offences established by this Act;

(b) To establish the ways in which relatives may participate in the design, implementation, monitoring and evaluation of searches for and identification of disappeared and missing persons, as well as to ensure their cooperation during the stages of the investigation, so that they can express their views, receive information and provide clues or evidence.

50. Once the Office of the Special Prosecutor for Disappeared Persons becomes aware of a case, it must start an investigation without delay, in accordance with the Political Constitution of the United Mexican States, the Federal Criminal Code and Code of Criminal Procedure, the National Code of Criminal Procedure, the Organic Act on the Office of the Attorney General of the Republic and other applicable instruments.

51. The new General Act also empowers the National Search Commission and the search groups to immediately initiate thorough investigations, given that the Act not only defines the offence but also lays down operational procedures.

*National Search System — Operational Powers for the Investigation of Offences and Search and Location of Disappeared and Missing Persons*

| National Search Commission | Search groups | Office of the Special Prosecutor |
|---|---|---|
| Article 53, sections X, XI, XII, XIII, XV, XVI, XX, XXI, XXIII, XXXI | Art. 66, sections I, II, III, IV | Article 70, sections I, III, VI, VII, VIII, IX, X, XI, XII, XIII, XIC, XVII, XVIII, XIX, XX |

52. The Office of the Attorney General is making a special effort to determine what is the best organizational structure and how best to conduct investigations and searches under with the new Act.

53. Therefore — along with the reorganization of the Office of the Special Prosecutor for Disappeared Persons — workshops are regularly scheduled and carried out for officials of the Federal Prosecution Service and relatives of victims and/or persons who report disappearances, who assist in the investigation, search for and location of disappeared or missing persons, who are kept informed of the progress of searches in the context of investigations. The contributions of participants are also taken into account if their suggestions are useful under the law.

54. The Office of the Prosecutor, in coordination with groups of victims, provides support for searches in forensic medical services, social rehabilitation centres and psychiatric facilities. These actions strengthen trust in the Office and generate conditions for guaranteeing the right of victims to the truth and access to justice.

55. The democratic openness and civic spirit shown by the institutions in the workshops are evidence of their transparency and accountability to the citizens, leading them to conduct detailed and thorough investigations in keeping with the principle of due diligence.

56. These workshops also include representatives of the Federal Criminal Investigation Police, who report on the progress of investigations. The searches for and location of disappeared persons are carried out in coordination with other agencies and units, such as the Office of the Director of Expert Witness Services, the Federal Criminal Investigation Police and the Directorate for Victim Services, as well as with other institutions that provide security. The local prosecutors of federative entities are also often involved in these activities.

57. The Mexican State is determined to ensure that the new General Act fulfils its objectives, as that will guarantee substantial progress towards giving victims access to justice and punishing perpetrators in a manner commensurate with the seriousness of their actions. It will also help ensure that the search mechanism provides enough evidence to assume that an enforced disappearance has occurred, so that an effective investigation can be conducted without delay of all State officials or bodies that might have been involved, and to pursue all potential lines of investigation.

58. **Paragraph 29: The Committee encourages the State party to consider establishing within the Office of the Attorney General of the Republic a prosecution unit specializing in the investigation of cases of enforced disappearances which is endowed with sufficient resources — particularly specially trained staff — to address this criminal scourge from a national and transnational perspective, support the investigative function, and coordinate its work with other relevant agencies, including, in particular, the Disappeared Persons Search Unit.**

59. The Office of the Attorney General has a Special Prosecutor for Disappeared Persons, established by Decision A/094/15 of 9 October 2015. This special prosecutor's office has the authority to lead, coordinate and oversee efforts to search for and locate disappeared persons — and where applicable, to identify them forensically — as well as to prosecute disappearance-related offences.

60. The Office of the Special Prosecutor is working on setting up a National Register of Clandestine Graves and a DNA databank that is expected to be the most complete in Latin America and plans to use drones to locate victims. In 2016, work began on purging and updating the Institutional System of Information and Statistics, a database that has made it possible to conduct preliminary inquiries and to locate missing persons.

## Protection of persons who report and/or take part in the investigation of enforced disappearance

61. **Paragraph 31. The State party should:**

(a) **Redouble its efforts to ensure the prompt and effective implementation of the protection measures provided for by law with the aim of ensuring the effective protection of all persons referred to in article 12, paragraph 1, of the Convention against any possible ill-treatment or intimidation;**

(b) **Step up its efforts to prevent and punish any possible acts of intimidation and/or ill-treatment against human rights defenders working to combat enforced disappearances and to assist victims;**

(c) **Document cases of assaults, threats and intimidation in order to devise prevention and protection policies and to facilitate the effective investigation of such cases;**

(d) **Ensure in particular that all State agents refrain from making public statements that could discredit, stigmatize or endanger the relatives of disappeared persons or human rights defenders working to combat enforced disappearances and to assist victims.**

62. Article 7, section VIII of the General Victims Act establishes the right of victims to effective protection measures when their lives or personal integrity or personal freedom are threatened or they are at risk because of their status as victims and/or the exercise of their rights.

63. Article 12, section X, of the General Victims Act provides for the right of victims in criminal proceedings:

> X. To request precautionary or cautionary measures for the security and protection of victims, aggrieved persons and witnesses, for the investigation and prosecution of the alleged perpetrators of the offence and for the securing of property as reparation for the harm.

64. In accordance with article 40 of the General Victims Act, the federal authorities and federative or municipal entities, in accordance with their jurisdiction and capacity, must immediately take the necessary steps to prevent victims from suffering injury or damage.

65. When a victim requests the Executive Commission for Victim Support to provide protective measures or at the request of an authority, in accordance with article 10, section IV of the regulations to the General Victims Act, the Commission should make arrangements for requesting interim or protection measures from the appropriate authorities if the life, liberty, physical or psychological integrity of the victim are in imminent danger.

66. Once protective measures are granted, in accordance with article 125 of the General Victims Act, the Federal Legal Counsel's Office is in charge of following up on all proceedings pertaining to protective measures.

## Enforced disappearances during the period known as the "dirty war"

67. **Paragraph 33: The State party should intensify its efforts to:**

**(a) Ensure that all cases of enforced disappearance perpetrated during the period known as the "dirty war" are investigated promptly and that the alleged perpetrators are prosecuted and, if found guilty, punished in accordance with the seriousness of their acts;**

**(b) Locate and, in the event of death, identify, as quickly as possible, all persons subjected to enforced disappearance during that period;**

**(c) Guarantee the right to the truth about what actually happened;**

**(d) Guarantee that all victims, regardless of whether their cases have been corroborated by the National Human Rights Commission, receive adequate reparation that includes the means for their rehabilitation and takes account of gender issues.**

68. On 27 November 2001, the National Human Rights Commission issued Recommendation No. 26/2001, addressed to the then head of the federal executive branch, in order to: (i) prevent by all legal avenues a repetition of events related to social and political movements such as those that occurred during the 1970s and early 1980s and (ii) instruct the Attorney General of the Republic to appoint a special prosecutor to investigate the crimes that might be a consequence of the events mentioned in the Recommendation.

69. In the Recommendation, the National Human Rights Commission concluded that in 275 cases of persons reported as disappeared, there had been violations of the right to legal certainty, to liberty and personal integrity and to adequate defence, which are envisaged in articles 1, 11, 14, 16, 20 and 22 of the Political Constitution of the United Mexican States, resulting in a transgression of the right to liberty, to personal security and integrity, to equality before the law, to justice, to movement and residence, to protection from arbitrary detention and to due process.

70. In response to the Recommendation, the Attorney General — by means of Decision A/01/02 of 4 January 2002 — established the Office of the Special Prosecutor for acts likely to constitute federal offences committed directly or indirectly by public officials against persons with links to past social and political movements.

71. On 30 November 2006, the Attorney General issued Decision A/317/06, published in the Official Gazette on 26 March 2007, derogating Decision A/01/02. Accordingly, criminal proceedings and other pending matters that had been handled by the

aforementioned Special Prosecutor were transferred to the Office of the General Coordinating Office for Investigations.

72. As a result, the General Coordinating Office for Investigations received 570 preliminary inquiries, which were pending, related to National Human Rights Commission Recommendation No. 026/2001.

73. Of the total number of statements received from the Office of the Special Prosecutor for events likely to constitute federal offences committed directly or indirectly by public officials against persons with links to past social and political movements, 294 preliminary inquiries were initiated for the offence of enforced disappearance of persons, while the rest were for other offences.

## Handling of cases of enforced disappearance

74. Investigations of enforced disappearance from case files received from the Office of the Special Prosecutor for acts likely to constitute federal offences committed directly or indirectly by government officials against persons with links to past social and political movements have not concluded because criminal proceedings have not been initiated. However, it has been found that in some cases, the court lacks jurisdiction, or a case has been consolidated with others; as a result, of the 294 preliminary inquiries received for the offence of enforced disappearance, 235 are pending as of this date.

75. Of those 294 preliminary inquiries into enforced disappearance, 59 have been concluded as follows:

- In 34 preliminary inquiries, it was decided that the ordinary court concerned lacked jurisdiction;
- 25 cases were consolidated with others.

76. In order to properly pursue preliminary inquiries, officials of the Federal Prosecution Service have continued with proceedings, bearing in mind the nature and time frame of the events under investigation. The main actions involved are as follows:

- Federal, state and municipal authorities are asked to supply background information on victims in order to verify their existence and obtain evidence for locating them.
- The different units are asked to provide information so as to obtain data on potential perpetrators.
- Statements to prosecutors are requested from relatives of victims and, if necessary, from witnesses of events likely to constitute offences.
- Workshops have been conducted directly in the communities of victims' families, with the support of expert services, so as to obtain elements for the investigation and make it possible to locate disappeared persons. Genetic samples have been obtained from families of missing persons — with their prior authorization and consent — for purposes of genetic profiling. The information thus obtained is entered into the database of the General Office for the Coordination of Expert Witness Services for purposes of comparison in the event that skeletal remains are found.
- To date, 336 DNA samples have been collected.
- The workshops are also designed to assist indirect victims by explaining what progress has been made in investigations related to their missing relatives or, as the case may be, providing the information they should have as direct victims. To date, this service has been provided to 1,000 persons.
- The collaboration of victims is also requested in order to develop ante-mortem forms and sketches of missing persons.

77. Several institutions are taking part in the workshops, including the National Human Rights Commission (as an observer), the Ministry of the Interior (for purposes of administrative reparations), the Executive Commission for Victim Support (for purposes of

administrative reparations), the Office of the Assistant Attorney General for Human Rights, Crime Prevention and Community Services (as an observer) and the General Office for the Coordination of Expert Witness Services (expert activities).

78. In parallel fashion, the General National Archive conducts a thorough search of the documents of the Ministry of Defence and requests certified copies of the information pertaining to each case, in order to include it in the ongoing preliminary investigation.

79. In order to establish the facts and circumstances of the offence of enforced disappearance of persons and the potential responsibility of persons involved in the events, witness statements have been taken from one active and 20 retired military officers of different ranks.

## Reparations to victims and aggrieved persons

80. In 2001, the Mexican Government accepted the recommendation of the National Human Rights Commission and published in the Official Gazette a decision providing for different measures to be taken to prosecute offences against persons with links to past social and political movements. Article 4 of the decision reads as follows:

> ... Reparations to victims
>
> Article 4. The Ministry of the Interior shall set up an interdisciplinary committee to study, analyse and submit proposals for deciding on the form, procedures and terms to be followed in order to offer, when appropriate, fair administrative reparation to victims of past events referred to in this decision. The committee shall be made up of public officials of the federal public administration, subject to their being invited and, in an advisory capacity, of subject matter experts.

81. The Human Rights Unit of the Ministry of the Interior is the office in the federal public administration that is responsible for monitoring and implementing administrative reparations granted to victims of enforced disappearance as recognized under Recommendation No. 26/2001 of the National Human Rights Commission.

82. The Interdisciplinary Committee on Reparations created by the aforementioned Presidential Decision held 11 meetings, as follows:

- 6 plenary meetings (10 and 21 August 2006, 15 August 2007, 25 March and 30 September 2009 and 20 May 2010); and
- 4 working group meetings (6 and 14 September 2006, 28 August and 18 September 2007).

83. At those meetings, the Committee discussed aspects of reparations, with a focus on moral reparation, material and social reparations and guarantees of non-repetition. After the last meeting of the Committee, in 2011 and 2012, the former Unit for the Promotion and Defence of Human Rights made 56 payments for compensation of damages to the beneficiaries of the 56 persons recognized as victims pursuant to Recommendation No. 26/2001.[2]

84. On 25 October 2012, a Trust Fund for compliance with obligations in the area of human rights was set up to cover reparations arising from the sentences handed down by the Inter-American Court of Human Rights, as well as precautionary measures called for by the Inter-American Commission on Human Rights and the National Human Rights Commission, when the resources needed for compliance are not provided for in the spending budget of the Federation.

85. On 11 April 2014, the Trust Fund was amended to include among its purposes that of complying with the recommendations of the National Human Rights Commission whereby the agency or entity found responsible for compensating for damages caused by

[2] These compensation payments were charged directly to the budget of the former Unit for the Promotion and Defence of Human Rights of the Ministry of the Interior.

human rights violations must accept the recommendation and contribute the corresponding resources to the Trust Fund.

86. On 3 June 2014, the Unit for the Promotion and Defence of Human Rights asked the Legal Affairs Unit of the Ministry of the Interior (pursuant to article 64, section II, of the regulations of the Ministry of the Interior) for a legal opinion on the need to convene the Interdisciplinary Committee referred to in article 4 of the decision providing for measures to be taken to prosecute offences against persons with links to past social and political movements, in order to implement the reparations referred to in Recommendation No. 26/2001.

87. In reply, the Legal Affairs Unit of the Ministry of the Interior indicated that there are regulations establishing the necessary form, procedures and terms to carry out the actions needed to comply with the recommendations of the National Human Rights Commission. It also suggested that actions undertaken to comply with Recommendation No. 26/2001 should be consistent with the rules for operation of the Trust Fund.

88. Since then, the Unit for the Promotion and Defence of Human Rights has been in contact with victims and with different organizations representing the direct and indirect victims recognized in Recommendation No. 26/2001, with a view to helping them obtain full reparation.

89. The degree of compliance with the recommendation was accepted with evidence of partial compliance.[3]

90. Between the date of the amendment to the purpose of the Trust Fund to the date of this report, the Technical Committee of the Trust Fund approved a total of 82 cases under its consideration, on the following dates:

| *Meeting number* | *Date* | *No. of cases* |
|---|---|---|
| Third special meeting | 15 October 2014 | 41 |
| Fifth special meeting | 4 March 2015 | 3 |
| Fourth regular meeting | 13 July 2015 | 12 |
| Seventh special meeting | 8 December 2015 | 7 |
| Fifth regular meeting | 5 July 2016 | 4 |
| Tenth special meeting | 14 December 2016 | 5 |
| Sixth regular meeting | 5 June 2017 | 7 |
| Seventh regular meeting | 21 December 2017 | 3 |

**The total number of cases for which compensation has been paid are as follows:**

| | |
|---|---|
| The case of Rosendo Radilla 229-R | 1 |
| Cases paid through the former Unit for the Promotion and Protection of Human Rights | 56 |
| Cases paid through the Trust Fund | 82 |
| Cases with dual acknowledgement by the National Human Rights Commission[4] | 3 |
| **Total** | **142** |

[3] http://www.cndh.org.mx/.

[4] The victims identified as Nos. 237-R and 42-R, Nos. 153-R and 154-R, as well as Nos. 236-R and 241-R are the same persons, as mentioned in the comments on the determination of individual cases by the National Human Rights Commission in Recommendation No. 26/2001.

## Registers of persons deprived of liberty

91. **Paragraph 35: The State party should adopt the necessary measures to guarantee that:**

(a) **All deprivations of liberty are entered in uniform registers and/or records which include, as a minimum, the information required under article 17, paragraph 3, of the Convention;**

(b) **All registers and/or records of persons deprived of liberty are filled out and updated promptly and accurately;**

(c) **All registers and/or records of persons deprived of liberty are subject to periodic checks and, in the event of irregularities, the officers responsible are disciplined.**

92. Article 27 of the Federal Act on the Enforcement of Criminal Penalties stipulates that prison authorities are required to maintain a database containing information on persons deprived of liberty, in accordance with the Single System of Criminal Information as defined by the General Act on the National Public Security System. Furthermore, it must keep a single file on enforcement of criminal penalties for each person who enters the prison system.

93. The federal prison system includes the comprehensive system of federal centres, which makes it possible to centralize sharing of information among federal centres and avoid overlapping. The comprehensive system of federal centres reduces the time it takes to enter inmates in the National Register of Prison Information while at the same time generating reports on system activity, as well as statistics on the processes involved.

94. The General Office for the Coordination of Centres has determined that heads of Federal Prison Centres must ensure that information pertaining to the single file on each inmate is gathered, processed and updated in the legal-criminological database of the National Information System and in the National Archive of Sentenced Persons. It has also instructed the heads of centres to update the information on capacity in the comprehensive system of federal centres, so as to comply with article 27 of the Federal Act on the Enforcement of Criminal Penalties, and it has informed them of the content of paragraph 35 of the report of the United Nations Committee on Enforced Disappearances (see annex 3).

## Training on the Convention

95. **Paragraph 37: The Committee recommends that the State party take the necessary measures to ensure that, at the federal, state and municipal levels, all military and civilian law enforcement personnel, medical personnel, public officials and other persons who may be involved in the custody or treatment of persons deprived of their liberty, including judges, prosecutors and other officials responsible for the administration of justice, receive suitable training on a regular basis concerning the provisions of the Convention, in accordance with article 23 thereof.**

### Military personnel

96. The Ministry of Defence provides comprehensive training on human rights to all members of the Army and the Air Force. The Ministry of Defence has a human rights programme for the period 2014–2018, a programme on promotion and strengthening of human rights and international humanitarian law for the period 2015–2018 and a gender equality programme, which include provisions on prevention of the enforced disappearance of persons (annex 4).

### Persons who may be involved in the custody or treatment of persons deprived of their liberty

97. In addition, article 14, section VIII of the regulations of the Deconcentrated Administrative Agency for Prevention and Social Rehabilitation notes that the Directorate

General for Administration of the Agency is responsible for designing and managing the Agency's annual training and staff development programme, based on the needs of different administrative units. In order to work as an official in the federal prison system, in addition to passing the integrity test, candidates must take the initial training course offered by the National Academy of Prison Administration. The Agency also conducts an ongoing human rights training programme for public officials. In 2017, the staff training programme added a course on human rights and the enforced disappearance of persons which was attended by nine persons (see annex 5).

98. A formal invitation for candidates to apply for the bachelor's-level programme for prison guards for the 2018–2012 academic term was issued during the sixteenth plenary assembly of the National Conference of the Prison System held at the end of 2017. The invitation for the programme was extended to the 32 state prison systems, bearing in mind that candidates must meet the requirements established by the Ministry of Education.

99. This educational project enhances the professionalization of the national prison system (see annex 6).

**Civilian law enforcement personnel**

100. In accordance with article 23 of the International Convention for the Protection of All Persons from Enforced Disappearance and in response to the recommendations made by the Committee on Enforced Disappearances, the Office of the Attorney General reports that the following training activities have been carried out in the area of enforced disappearance:

- The Directorate General for Public Service Careers coordinates training and initial training courses which cover human rights as a cross-cutting subject so that all participants will have knowledge that is relevant and useful for policy and methodology for the achievement of equal justice for all. From 2014 to this date, 583 officers of the Office of the Attorney General, 210 officers of the Federal Criminal Investigation Police, 75 professional experts and 154 technical experts have received initial training, for a total of 1,022 public officials who were trained prior to their induction.
- The Training Institute for Prosecution, Police and Expert Personnel has taught the following subjects, which are included in the plans and curricula of training courses and induction training for technical experts and officials of the Federal Criminal Investigation Police.

101. Class of 2016

- Field criminology, focusing on the Harmonized Protocol on the Search for Disappeared Persons and on the Investigation of Enforced Disappearances. The course was offered from August to November 2016.
- Forensic archaeology, focusing on the role of archaeology in connection with the disappearance of persons: (a) Concepts of disappearance and enforced disappearance, and (b) differences between disappearance and enforced disappearance. The course was offered from August to November 2016.

102. Class of 2017

- Forensic archaeology, focusing on the role of archaeology in connection with the disappearance of persons: (a) Concepts of disappearance and enforced disappearance, and (b) differences between disappearance and enforced disappearance. The course was offered from July to October 2016.

**Officers of the Federal Criminal Investigation Police**

103. Class of 2017

- Human rights and the work of the officers of the Federal Criminal Investigation Police, including the General Act on the prevention, investigation and punishment of torture and other cruel, inhuman or degrading treatment, published in the Official

Gazette on 26 June 2017, and the Harmonized Protocol on the Search for Disappeared Persons and the Investigation of Enforced Disappearances. The course was offered in August 2017.

- Sphere of responsibilities of officers of the Federal Criminal Investigation Police, focusing on the subject of assumptions of criminal responsibility, and specifically, the secondary subject of enforced disappearance. The course was offered in September 2017.

104. The Directorate General for Vocational Training coordinated 49 academic activities between 1 March 2014 and 31 December 2017. These courses benefited 1,088 public officials, including 381 public prosecutors, 63 experts, 102 police officers and 542 administrative staff. The following subjects were covered:

(a) Search for persons in connection with the offence of enforced disappearance;

(b) Human rights and enforced disappearance;

(c) Human rights, prevention of torture and combating enforced disappearance of persons;

(d) Enforced disappearance;

(e) Enforced disappearance in Mexico;

(f) International Day of the Victims of Enforced Disappearances;

(g) Towards an intervention model for assisting indirect victims of the offence of enforced disappearance;

(h) International instruments applicable to cases of enforced disappearance and implementation of the protocol of the Office of the Attorney General on the matter;

(i) Investigation and prosecution of acts constituting enforced disappearance of persons;

(j) Investigation and prosecution of acts constituting enforced disappearance of persons;

(k) Handling of evidence, chain of custody and interviewing and interrogation techniques in the investigation of enforced disappearance;

(l) Harmonized Protocol on the Search for Disappeared Persons and Investigation of Enforced Disappearances;

(m) Treatment of victims of enforced disappearance.

105. The Council of the Federal Judiciary reports that information compiled in the case file monitoring system shows that from 1 June 2001 to 15 January 2018, 10 convictions were handed down in connection with enforced disappearance. The total number of preventive custody cases handled in district courts at the national level may be found in annex 7.

## The right to receive reparation and prompt, fair and adequate compensation

106. **Paragraph 39: In order to guarantee the right to reparation and to prompt, fair and adequate compensation for all persons who have suffered harm as a direct result of an enforced disappearance, the Committee recommends that the State party should:**

**(a) Intensify its efforts to ensure that the General Victims Act is fully implemented throughout the State party as soon as possible;**

**(b) Guarantee that access to reparation and compensation are not hindered by formal issues such as the failure to implement the Act at the state level;**

(c) **Take steps to ensure that all agencies that have information concerning a victim within the meaning of the Act arrange for the information about the person to be entered in the victims' register of the Executive Commission for Victim Support.**

107. The Executive Commission for Victim Support has the record of 1,105 persons in the National Register of Victims of Enforced Disappearance; 2,241 persons are missing, and 201 are covered by General Recommendation No. 26/2001 of the National Human Rights Commission concerning cases that occurred during the period known as the "dirty war".

108. In 2017, regulations were issued for the operation of the Fund for Aid, Assistance and Comprehensive Reparation to ensure that appropriate assistance is provided for victims, and an Emergency Fund was set up to provide food and accommodation for direct and indirect victims in cases of enforced disappearance.

109. With the entry into force on 16 January 2018 of the General Act on Enforced Disappearance of Persons, Disappearance Perpetrated by Individuals and the National Search System, the mechanisms envisaged therein can be implemented. The Act also provides procedural guarantees and access to justice and reparation for victims involved in searching for and locating their relatives.

110. The Act includes a five-chapter title on the rights of victims which establishes the obligation of all competent authorities to enforce the guarantees laid down therein.

111. Furthermore, personnel assigned to the legal counsel's office are required to offer solutions to indirect victims in regard to their right to request a special declaration of absence for all matters that may arise from the disappearance of their relatives.

112. As regards immediate assistance, under the General Victims Act, the Executive Commission for Victim Support must provide all victims with full services in terms of legal advice and social, psychological and medical services.

113. Priority for assistance to victims and for services to be provided by the institutions responsible for providing assistance and treatment will be determined by the seriousness of the harm suffered.

114. In addition, the three branches of government support victims by providing full legal advice and information on processes and procedures related to any matter to which they are entitled. These services are free and are provided by professionals in the field.

115. Psychological and medical care must be provided free of charge, immediately if necessary, by qualified professionals in the area concerned. Care is provided in all public hospitals operated at all levels of government, and on a continuing basis when necessary.

116. Paragraph 41:

(a) Include information on the organizational structure of the Office of the Special Prosecutor for Disappeared Persons; the technical, financial and human resources assigned to the Office and whether they are sufficient to enable it to discharge its functions promptly and effectively; the training provided to the public officials who make up the Office; and which cases of disappearance fall within its competence;

(b) The impact of the application of the Harmonized Protocol; measures taken to ensure its proper application in practice, in particular with regard to the initiation ex officio and without delay of a search for a disappeared person; and measures taken to ensure that the Protocol is duly disseminated and made known to the relevant authorities;

(c) Whether the ante-mortem/post-mortem database has been fully implemented; whether relevant information concerning all cases of disappearance is effectively added to the database; what specific actions were taken to adapt and standardize formatting in order to integrate all national databases with federal forensic data; and what were the results of those actions;

(d) Whether the genetic database of the Office of the Attorney General includes information on all persons who are reported to have disappeared in the State party;

(e) Provide additional information on the National Search System envisaged in the General Act. If implementation of the National Search System has begun, provide information on the effectiveness of its activities, including the number of persons who have been found either alive or dead, and on the National Forensic Register and its relationship to the ante-mortem/post-mortem and genetic databases of the Office of the Attorney General.

117. The Office of the Special Prosecutor for Disappeared Persons has the following organizational structure:

- Prosecutor;
- Director General;
- Director General for Administration;
- Director for Oversight of Public Prosecutors;
- Records clerk;
- Department of Informatics and Statistics;
- Office of the Deputy Director for *Amparo* Protection;
- Office of Administrative Coordination.

118. Substantive area:

- Traditional system, divided into six national regions, which in turn comprise 30 investigating groups, 30 public prosecutors;
- Adversarial system;
- Rapid Response Unit;
    - Supervisor;
    - Four public prosecutors responsible for incoming case referral;
- Investigation and Litigation Unit;
    - Head;
    - Chief Public Prosecutor;
    - Four public prosecutors.

119. The staff of the different areas is made up of 104 persons.

120. Financial resources.

121. An allocation of 25,636.764 Mexican pesos is included in the 2018 spending budget, for the following three main items:

- Personnel services (salaries and wages): 20,257,864 pesos;
- Materials and supplies: 320,355 pesos;
- General services: 5,058,545 pesos.

122. Technical resources

- Justice system;
- Ante-mortem questionnaires and registration;
- Harmonized Protocol on the Search for Disappeared Persons and Investigation of Enforced Disappearances.

123. Between 2016 and 2017, the Ethics and Human Rights Unit of the Office of the Attorney General offered training on the Office's Code of Conduct to 47 public officials assigned to the Office of the Special Prosecutor for Disappeared Persons and trained one more on the national anti-corruption system.

124. The Directorate General for Systematization and Information Security and the Directorate for Administration of Information Systems and Databases of the National Centre for Planning, Analysis and Information to Combat Crime installs, administers, monitors, distributes and supervises the operation of the ante-mortem/post-mortem database system. The Coordination Office for Expert Services participates in supplying post-mortem information solely on bodies, skeletal remains and body parts that have arrived, at the request of the Federal Prosecution Service, at the Federal Forensic Medical Centre, where they will undergo multidisciplinary forensic analysis. The General Coordinating Office for Investigations has an internal register of ante-mortem/post-mortem information which is fed only with data from prior inquiries from the index of this administrative unit, concerning the investigation of the offence of enforced disappearance of persons connected with past social and political movements which occurred during the 1970s and early 1980s.

125. Following up on the agreements adopted at the thirty-fifth plenary assembly of the National Conference of State Attorneys General and the twenty-ninth meeting of the National Group of Expert Services and Forensic Sciences on the National Register of Genetic Data and how to improve it, an ongoing exchange of information with some law enforcement agencies has made it possible to enhance the information contained in the Combined DNA Index System (CODIS) database of the Forensic Genetics Laboratory of the General Office for the Coordination of Expert Witness Services.

126. The CODIS database consists of two repositories used in searching for disappeared persons. The first one consists of genetic profiles of relatives who are searching for disappeared persons, and the second, genetic profiles of skeletal remains and bodies classified as unidentified.

127. As regards the forensic matters covered in the General Act on Enforced Disappearance of Persons, Disappearance Perpetrated by Individuals and the National Search System, discussion groups have been set up for the purpose of appointing a working group to develop the necessary mechanisms. Work is still under way on the design and operation of the mechanisms called for in the Act.

## The legal situation of disappeared persons whose fate has not been clarified and that of their relatives

128. **Paragraph 43: The Committee recommends that the State party take the necessary measures to ensure that legislation throughout the State party establishes a procedure for obtaining a declaration of absence due to enforced disappearance in order to deal appropriately with the legal situation of disappeared persons whose fate has not been clarified and that of their families.**

129. As mentioned earlier, the third chapter of the General Act on Enforced Disappearance establishes a procedure for relatives of disappeared persons to apply for a special declaration of absence. The procedure may be initiated three months after the date of the complaint or report of disappearance, or of the submission of a complaint to the National Human Rights Commission or to a public human rights authority of the federative entities; the matter must be resolved no later than six months from the beginning of the procedure. The process has been kept brief and simple so as to enable families to obtain custody of minors, property, social security benefits or assets once the judge of the competent civil court has issued the special declaration of absence.

130. The provisions of the new Act governing the procedure are set out below.

131. Article 142. Relatives, other persons recognized as legitimate by the Act and the Federal Prosecution Service may request the appropriate civil court to issue a special declaration of absence as provided for in the Act and the applicable legislation.

132. The procedure for obtaining a special declaration of absence is strictly voluntary. The authorities in contact with family members must inform them about the procedure and the effect of the declaration.

133. Article 144. The laws of the Federation and of the federative entities must establish the procedure referred to in this chapter; the matter of the special declaration of absence must be resolved within six months at the most. The procedures must include those cases in which the presumption of absence or death of a disappeared person has been declared, in order to allow for the special declaration of absence to take effect and to correct the legal status of the disappeared person. The procedure for obtaining a special declaration of absence may be requested three months after the date of the complaint or report of disappearance, or of the submission of a complaint to the National Human Rights Commission or to a public human rights authority of the federative entities. The procedure for issuing the special declaration of absence must be immediate, swift and free of charge. The costs of this procedure, including the publication of edicts, shall not give rise to any contribution being necessary in the event of a publication in official media. The Executive Commission or the victims commission concerned may grant any necessary assistance to the relatives during the procedure, including expenses arising from it, pursuant to the General Victims Act and other applicable legislation. The procedures referred to in this chapter must allow for the possibility of interim measures being taken during the proceedings and must avoid any requirement that might make a declaration of absence costly. The relatives may discontinue the procedure at any time before the declaration is issued.

134. Article 145. The purpose of the special declaration of absence is: I. To recognize and protect the legal status and the rights of the disappeared person, and II. To provide for measures to guarantee full protection to relatives of the disappeared person.

135. Article 146. The special declaration of absence must have, at a minimum, the following effects:

(a) To preserve the parental rights of the disappeared person and protect the rights and property of children under 18 through the person authorized to exercise parental authority or, as appropriate, through the appointment of a guardian, based on the principle of the best interests of the child;

(b) To establish the rights of guardianship and custody of persons under 18 years of age in accordance with the applicable civil legislation;

(c) To protect the assets of the disappeared person, including goods acquired on credit on which payment is still due, as well as any mortgaged property;

(d) To establish the manner and time limits for relatives or other persons authorized by law, to have access, subject to judicial supervision, to the assets of the disappeared person;

(e) To allow the beneficiaries of a social security entitlement based on an employment relationship of the disappeared person to continue enjoying all the benefits applicable to the entitlement;

(f) To temporarily suspend any judicial, mercantile, civil or administrative proceedings against the rights or property of the disappeared person;

(g) To declare temporary relief for the disappeared person from his or her duties or responsibilities;

(h) To provide for legal representation of the absent person when appropriate;

(i) To establish the rules applicable in the event the person is found alive for purposes of restoring his or her rights and ensuring compliance with his or her obligations.

136. Section 148. The National Search Commission must continue the search, in accordance with this Act, and the special prosecutors must continue with the investigation and prosecution of offences covered by this Act, even when a relative or authorized person has requested a special declaration of absence.

### Legislation concerning the removal of children

137. **Paragraph 45: The Committee recommends that the State party adopt the necessary legislative measures to make the acts described in article 25, paragraph 1 of the Convention specific offences at both the federal and state level and that it establish penalties for such acts commensurate with their extreme gravity.**

138. Article 31 of the General Act criminalizes the conduct of anyone who fails to surrender to the authorities or relatives a child born of a victim of the offence of enforced disappearance during the period of concealment, being aware of that fact and who, without having participated directly in the commission of the offence of enforced disappearance, retains or keeps hidden a child born during the mother's disappearance, being aware of that fact.

## Conclusion

139. Mexico will continue to work to ensure the effective implementation of the General Act and other relevant legislation and thus consolidate policies and actions to prevent and combat enforced disappearance, in compliance with the Convention.

140. Within this framework, pursuant to article 29 of the Convention, Mexico will continue to follow up on the Committee's recommendations resulting from the present report, including by continually providing information to enable the Committee to receive in timely fashion any details it considers necessary for its work in the light of its mandate under the Convention. To this end, the State will also seek to strengthen its dialogue with civil society and with groups of relatives of disappeared persons.

141. Considering the specific aspects of the aforementioned article 29, Mexico will continue to strengthen its dialogue and transmit information to the Committee so as to foster constructive collaboration for the effective implementation of the Convention.